

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: May 18, 2005

Division: Growth Management

Bulk Item: Yes No X

Department: Planning

Staff Contact Person: K. Marlene Conaway

AGENDA ITEM WORDING:

Public hearing to consider an Interim Development Ordinance (IDO) deferring the acceptance of applications for redevelopment and conversion of five units or more of multi-family rental housing and/or mobile home parks within 120 days of the effective date of the Ordinance or when the comprehensive plan and land development regulations become effective, whichever comes first. (Second of two public hearings)

ITEM BACKGROUND:

Economic pressure is increasing to convert existing affordable multi-family rental housing and mobile home parks to different housing types such as market rate town-homes and condominiums that are no longer affordable for the County workforce. A number of owners of multi-family rental and mobile home parks are exploring such conversions, which will further decrease the existing supply of affordable and employee workforce housing. Conversion of existing multifamily rental housing and mobile home parks into residential dwellings (condominiums), often in gated communities for use as "vacation rentals" will further reduce the availability of housing units that are currently affordable in the County. The County finds that it is necessary to enact an Interim Development Ordinance deferring the acceptance of development applications that seek development approval for the redevelopment and conversion of existing affordable multi-family rental housing and mobile home parks.

The Planning Commission at their April 13, 2005 meeting voted two to two to recommend denial of the IDO; they will consider the ordinance again at their May 11 meeting when five members will be present. At the April 13, 2005 Planning Commission meeting, it is anticipated that the Commission will recommend action to the Board of County Commissioners.

Staff has made changes to the IDO as directed by the Board at its April 20, 2005 meeting. Additionally, County Attorney Tyson Smith of White and Smith recommended changes to the IDO that included clarifying the IDO's subject and its language to better define the content.

PREVIOUS RELEVANT BOCC ACTION:

The Board of County Commissioners at a regular meeting on January 19, 2005, directed staff to prepare an interim development ordinance to prevent further redevelopment and conversion of housing that is affordable for the workforce, while staff prepares amendments to the 2010 Comprehensive Plan and the Land Development Regulations.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval

TOTAL COST: N/A

BUDGETED: Yes No N/A

COST TO COUNTY: N/A

SOURCE OF FUNDS: N/A

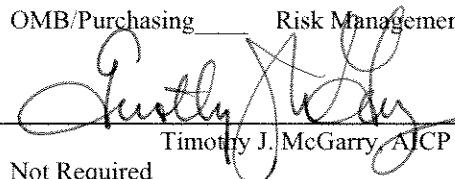
REVENUE PRODUCING: Yes: N/A No:

AMOUNT PER MONTH N/A Year

APPROVED BY: County Attorney X

OMB/Purchasing Risk Management

DIVISION DIRECTOR APPROVAL:


Timothy J. McGarry, AICP

DOCUMENTATION: Included X

Not Required

DISPOSITION:

AGENDA ITEM #

**INTERIM DEVELOPMENT ORDINANCE
DEFERMENT OF DEVELOPMENT
APPLICATIONS
FOR THE
REDEVELOPMENT AND CONVERSION
OF FIVE UNITS OR MORE OF
MULTI-FAMILY
RENTAL
HOUSING AND/OR MOBILE HOME PARKS**

**BOARD OF COUNTY COMMISSIONERS
KEY LARGO
MAY 18, 2005**

INTERIM DEVELOPMENT ORDINANCE

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AN INTERIM DEVELOPMENT ORDINANCE DEFERRING THE ACCEPTANCE AND PROCESSING OF DEVELOPMENT APPLICATIONS AND THE ISSUANCE OF DEVELOPMENT APPROVALS FOR THE REDEVELOPMENT AND OR CONVERSION OF FIVE UNITS OR MORE OF MULTI-FAMILY RENTAL HOUSING AND/OR MOBILE HOME PARKS UNTIL LAND DEVELOPMENT REGULATIONS AND COMPREHENSIVE PLAN AMENDMENTS ARE DRAFTED; PROVIDING FOR EXEMPTIONS; PROVIDING FOR TRANSMITTAL TO FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS (DCA); AND PROVIDING FOR EXPIRATION WITHIN 120 365 DAYS OF THE EFFECTIVE DATE OF THE ORDINANCE OR WHEN THE AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST.

RECOMMENDATIONS

Staff: **Approval**
DRC: **Approval**
PC:

March 10, 2005
March 10, 2005
May 11, 2005

Staff Report
Resolution #D -05
Resolution #P -05

DRAFT BOCC ORDINANCE

ORDINANCE NO. _____ 2005

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AN INTERIM DEVELOPMENT ORDINANCE DEFERRING THE ACCEPTANCE AND PROCESSING OF DEVELOPMENT APPLICATIONS AND THE ISSUANCE OF DEVELOPMENT APPROVALS FOR THE REDEVELOPMENT AND OR CONVERSION OF FIVE UNITS OR MORE OF MULTI-FAMILY RENTAL HOUSING AND/OR MOBILE HOME PARKS UNTIL LAND DEVELOPMENT REGULATIONS AND COMPREHENSIVE PLAN AMENDMENTS ARE DRAFTED; PROVIDING FOR EXEMPTIONS; PROVIDING FOR TRANSMITTAL TO FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS (DCA); AND PROVIDING FOR EXPIRATION WITHIN 120 365 DAYS OF THE EFFECTIVE DATE OF THE ORDINANCE OR WHEN THE AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST.

WHEREAS, the Board of County Commissioners discussed the need for and loss of affordable housing for the County workforce at their meeting of January 19, 2005; and

WHEREAS, the existing supply of employee and affordable housing is insufficient to meet the current demand for affordable workforce housing; and

WHEREAS, the Rate of Growth Ordinance (ROGO) limits the permits for new housing allocations in the County to maintain hurricane evacuation times; and

WHEREAS, the loss of existing affordable housing through redevelopment is impacting the available supply of such housing for the County workforce; and

WHEREAS, Objective 601.3 of the 2010 Comprehensive Plan directs the County to implement efforts to eliminate substandard housing and to *preserve, conserve and enhance the existing housing stock*; and

WHEREAS, affordable/employee housing has been identified by the Board of County Commissioners as one of three major commitments in the Partnership Agreement with the State approved by the Board on January 21, 2004; and

WHEREAS, multi-family rental housing and mobile home parks in the County serve a vital role in providing affordable workforce housing for those persons who live and work in the County; and

WHEREAS, economic pressure is increasing to convert the existing affordable multi-family rental housing and mobile home parks to different housing types that are no longer affordable for County workforce; and

WHEREAS, a number of owners of this housing are exploring the possible change of use of their property, which will further decrease the existing supply of affordable and employee workforce housing; and

WHEREAS, conversion of existing multifamily rental housing and/or mobile home parks into residential dwellings (condominiums), often in gated communities for use as "vacation rentals" will further reduce the availability of housing units that are currently affordable in the County; and

WHEREAS, Chapter 380.0552 (7) F.S., "Principals for Guiding Development" requires the County to conduct programs and regulatory activities to *(j) make available adequate affordable housing for all sectors of the population of the Florida Keys*; and

WHEREAS, in order to make effective the preservation of existing affordable housing while the County prepares regulations to implement the Objective and Guiding Principle of Chapter 380 F.S., it is necessary to temporarily halt conversions and redevelopment of existing multi-family housing and/or mobile home parks of five (5) or more units; and

WHEREAS, minor conversion and redevelopment of multi-family housing and/or mobile home developments, as specifically exempted herein, will not significantly aggravate the countywide affordable housing need; and

WHEREAS, the County recognizes the need to develop comprehensive plan and land development regulations and programs to preserve the existing stock of affordable housing and increase the availability of affordable housing for those who live and work in the Florida Keys; and

WHEREAS, the County has committed necessary staff and resources to the development of permanent policies and regulations to address this need within the time this ordinance is in effect; and

WHEREAS, the utilization of ~~the moratorium device~~ interim development regulations as a temporary measure to facilitate government decision making, study and adoption of comprehensive plan and land development regulations is a legitimate governmental tool to facilitate logical and considered growth and as a means of avoiding inefficient and ill-conceived development; and

WHEREAS, the County finds that it is necessary to enact an Interim Development Ordinance deferring the acceptance of development applications that seek development approval for the redevelopment of five units or more of multi-family rental housing and/or mobile home parks so the County can prepare policies and regulations to address the affordable housing needs of those residents; and

WHEREAS, Chapter 125, F.S. authorizes the Board of County Commissioners to adopt ordinances to provide standards protecting against imminent and immediate threat to the health, safety and welfare of the citizens of Monroe County; and

WHEREAS, this Interim Development Ordinance constitutes a valid exercise of the County's police power and is otherwise consistent with Section 163.3161, *et seq.*, F.S., which, *inter alia*, encourages the use of innovative land development regulations including interim provisions ~~like moratoria~~ to implement the adopted comprehensive plan; and

WHEREAS, the Board of County Commissioners at a regular meeting on January 19, 2005 directed staff to prepare an ordinance deferring acceptance of applications for redevelopment of multi-family rental housing and/or mobile home parks, while staff prepares amendments to the 2010 Comprehensive Plan and Land Development Regulations to protect the County stock of existing affordable housing; and

WHEREAS, following direction of the Board of County Commissioners, the Planning Department staff immediately undertook the development of this Interim Development Ordinance and a review of the affordable housing issues facing the County due to the conversion of certain multi-family housing and mobile home parks; and

WHEREAS, the Planning Commission has reviewed the draft Interim Development Ordinance and recommended approval to the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners has reviewed and considered the draft Interim Development Ordinance recommended by the Planning Commission and Planning staff.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1. The purpose and intent of this Interim Development Ordinance is in accordance with the Board of County Commissioners' directive of January 19, 2005, to prepare an interim development ordinance to prevent the redevelopment and conversion of multifamily rental housing and/or mobile home parks that would exacerbate the County's limited housing supply, while permanent legislation is being prepared.

Section 2. During the time this ordinance is in effect as specified herein, ~~there shall be a moratorium upon the issuance of~~ County staff will not issue building permits, acceptance of development applications or issue ~~and~~ of development orders and development permits within unincorporated Monroe County concerning the matter of redevelopment and conversion of multifamily rental housing and/or mobile home parks to any other use, except as provided herein.

Section 3. The following definitions apply in this ordinance:

- Conversion means a change in use as defined under Chapter 9.5, Monroe County Code.
- Mobile home park means any real property containing five (5) or more mobile homes that is governed by Chapters 513 and 723, Florida Statutes.
- Mobile home has the same definition as set forth in Sections 320.01(a)(a), 513.01(3) and 723.003(3), Florida Statutes.
- Multi-family rental housing means five (5) or more attached and/or detached dwelling units, including mobile homes not in a mobile home park, on a parcel or contiguous parcels under common ownership leased or have been available for lease of tenancies of thirty (30) days or more within three-hundred sixty five (365) days prior to the effective date of this ~~moratorium ordinance~~.
- Redevelopment means the proposed removal, replacement or demolition of existing dwelling units or mobile homes for the purpose of constructing on the property attached or detached dwelling units that are built outside the footprints of existing structures and/or are built to have a total enclosed habitable floor area greater than the existing structures.

Section 4. Subject to the conditions listed below, the following conversion and redevelopment activities are exempt from this ordinance is: (a) the siting of replacement mobile homes pursuant to Section 723.041(4), F.S. and (b) development under an approved Major Conditional Use Permit. The redevelopment and conversion of multi-family rental housing and/or mobile home parks shall only be exempt from this Ordinance if all the following conditions are met:

1. Development approval shall be pursuant to a Major Conditional Use Permit regardless of the requirements of Chapter 9.5, Monroe County Code; and
2. At least ~~forty (40)~~ thirty (30) percent of the total number of dwelling units and/or mobile homes to be redeveloped or converted shall be designated for affordable housing on site through placement of a ninety-nine (99) year restrictive covenant on each unit pursuant to Section 9.5-

266(f)(1) to enforce the affordable housing provisions of Chapter 9.5, Monroe County Code and Conditions 3 through 5 below and/or off-site pursuant to Condition 6 below; and

3. The affordable housing shall be restricted to households that do not exceed the Monroe County adjusted median gross annual household income; and
4. The lease and occupancy of all affordable housing units shall be pursuant to the provisions of Chapter 9.5, Monroe County Code; and
5. The maximum sale price of any affordable housing unit shall be no greater than 4.25 times the Monroe County median gross annual household income; and
6. The off-site transfer to a specific site(s) of the ROGO exempt development rights for any of the affordable housing units as provided for in Section 9.5-120.4, Monroe County Code, must be approved by conditional use permit no later than one-hundred eighty (180) days from the effective date of the issuance of the first building permit for any redevelopment and conversion authorized by the major conditional use approval pursuant to this Ordinance or, the ownership of the ROGO exempt development rights to the affordable housing shall revert to Monroe County for assignment to other projects.

Section 5. Pursuant to its lawful authority and the pending legislation doctrine as set forth in *Smith v. City of Clearwater*, 383 So.2d 681 (Fla. 2d DCA, 1980) the Board of County Commissioners hereby establishes the interim development regulations set forth in this Ordinance, which shall remain in full force and effect until the expiration of this legislation within one year one hundred and twenty (120) days of its effective date or whenever the plan and land development regulations become effective, whichever comes first.

Section 6: Until expiration of the Interim Development Ordinance, no building permit application or planning approval meeting the criteria for review identified in Section 2 hereof shall be granted pursuant to an application or request with a submittal date of March 1, 2005 or later.

Section 7: Any application for a building permit or development approval meeting the criteria for review identified in Section 2 hereof, with a submittal date of February 28, 2005, or earlier, shall be exempt from this Interim Development Ordinance.

Section 8: As of the effective date of this Ordinance, no application for a building permit development approval meeting the criteria for review identified in Section 2 hereof shall be accepted or processed by the Growth Management Division, except applications exempt there under and development awarded a vested rights determination pursuant to Section ~~7~~ 10 hereof.

Section 9: This Ordinance shall not be construed to prohibit the application for or the issuance of a building permit or development approval for any development or redevelopment that does not meet the criteria for review identified in Section 2 hereof that is allowed pursuant to the Monroe County Land Development Regulations and the 2010 Comprehensive Plan.

Section 10: Any property owner adversely affected by the provisions of this Interim Development Ordinance may seek a determination that the owner's proposed development or redevelopment is vested against the provisions of this Interim Development Ordinance, by filing with the Director of Growth Management, together with an administrative fee in the amount of \$400, a vested rights application setting forth facts establishing the applicant met, prior to the date that this Ordinance is

adopted by the Board of Monroe County Commissioners pursuant to the vested rights standards set forth in Section 9.5-181, Monroe County code. Such application must be filed no later than sixty (60) days after the effective date of this ordinance.

Section 11: The County Administrator is directed to have the Growth Management Division begin immediately preparing the draft text amendments and other supporting studies in cooperation with the Planning Commission in order to address the needs for maintaining the stock of affordable housing for the County workforce.

Section 12. If any section, subsection, sentence, clause, item, charge or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

Section 13. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 14. The ordinance is hereby transmitted to the Florida Department of Community Affairs pursuant to Chapter 380, Florida Statutes and the DCA is requested to review and approve it by Immediate Final Order, in accordance with F.S.120.569(2)(n), in recognition of the great public importance of preserving affordable housing and to prevent the threat of further loss of affordable housing in Monroe County, as "an immediate danger to the public health, safety, or welfare."

Section 15. This ordinance shall be filed in the Office of the Secretary of State of the State of Florida, but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving ordinance pursuant to Chapter 380, F.S.

Section 16. This ordinance shall stand repealed as of 11:59 p.m. on the ~~365~~ 120th day of the effective date of the Ordinance, unless repealed sooner by the Board of County Commissioners or upon adoption of amendments to the comprehensive plan and land development regulations for preserving existing affordable housing.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the ____ day of _____, 2005.

Mayor Dixie Spehar

Mayor Pro Tem Charles "Sonny" McCoy

Commissioner Murray Nelson

Commissioner George Neugent

Commissioner David Rice

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

Deputy Clerk



BOCC STAFF REPORT

Memo

May 3, 2005

TO: Board of County Commissioner

FROM: K. Marlene Conaway, Director of Planning and Environmental Resources

RE: Interim Development Ordinance-Multi-Family Rental Housing and Mobile Home Parks

MEETING DATE: May 18, 2005

Overview

The Board of County Commissioners (BOCC) at a regular meeting on January 19, 2005 directed Growth Management staff to prepare an ordinance deferring the redevelopment applications or issuance of development orders and development permits within unincorporated Monroe County for the redevelopment and conversion of housing that is affordable for the workforce while staff prepares amendments to the 2010 Comprehensive Plan and the Land Development Regulations (LDRs). Any building permit application or planning approval with a submittal date of February 28, 2005 or earlier shall be exempt from the Interim Development Ordinance. The moratorium is to be effective for 365 120 days or until adoption of the 2010 Comprehensive Plan and LDR amendments, whichever comes first.

The Planning Commission at their April 13, 2005 meeting voted two to two to recommend denial of the IDO; they will reconsider the ordinance again at their May 11 meeting when five members will be present. At the May 13, 2005 Planning Commission meeting, it is anticipated that the Commission will recommend action to the Board of County Commissioners.

The BOCC at the first of two Public Hearings on April 20, 2005, directed Growth Management staff to make a few changes to the proposed ordinance: 1) change the expiration of the ordinance to within 120 days instead of 365 days. 2) add to Section 3 language to the definition of a mobile home park to include "containing five (5) or more mobile homes." 3) change the exemption from 40 percent to 30 percent of the total number of dwelling units and/or mobile homes to be designated affordable housing and add "on site" in Section 4; 4) add a 99 year period to the restrictive covenant; and 5) add condition 6 to Section 4 to include language addressing transfer of development rights pursuant to Section 9.5-120.4, Monroe County Code.

In addition, Special Growth Management Legal Counsel, Tyson Smith of White and Smith recommended changes to the IDO to clarify language in the subject and content that better defines the purpose and intent of the IDO. Those recommendations have been incorporated into the IDO.

Background

The Board of County Commissioners discussed the need for and loss of affordable housing for the County workforce at their meeting of January 19, 2005. The discourse acknowledged that the existing supply of employee and affordable housing is insufficient to meet the current demand for affordable workforce housing. The Rate of Growth Ordinance (ROGO) limits the permits for new housing allocations in the County to maintain hurricane evacuation times. The loss of existing affordable housing through redevelopment is impacting the available supply of such housing for the County workforce. Objective 601.3 of the 2010 Comprehensive Plan directs the County to implement efforts to eliminate substandard housing and to *preserve, conserve and enhance the existing housing stock*. Affordable/employee housing has been identified by the Board of County Commissioners as one of three major commitments in the Partnership Agreement with the State approved by the Board on January 21, 2004.

Economic pressure is increasing to convert existing affordable multi-family rental housing and mobile home parks to different housing types such as market rate town-homes and condominiums that are no longer affordable for the County workforce. A number of owners of multi-family rental and mobile home parks are exploring such conversions, which will further decrease the existing supply of affordable and employee workforce housing. Conversion of existing multifamily rental housing and mobile home parks into residential dwellings (condominiums), often in gated communities for use as “vacation rentals” will further reduce the availability of housing units that are currently affordable in the County. Chapter 380.0552 (7) F.S. “Principals for Guiding Development” requires the County to conduct programs and regulatory activities to (j) *make available adequate affordable housing for all sectors of the population of the Florida Keys*.

In order to make effective the preservation of existing affordable housing while the County prepares regulations to implement the Objectives and Guiding Principles of Chapter 380 F.S., it is necessary to temporarily halt redevelopment of existing multi-family housing and mobile home parks. The County recognizes the need to develop comprehensive plan and land development regulations and programs to preserve the existing stock of affordable housing and increase the availability of affordable housing for those who live and work in the Florida Keys. The County has committed necessary staff and resources to the development of permanent policies and regulations.

The utilization of the moratorium device as a temporary measure to facilitate government decision making, study and adoption of comprehensive plan and land development regulations is a legitimate governmental tool to facilitate logical and considered growth and as a means of avoiding inefficient and ill-conceived development. This proposed moratorium is to provide time for staff to finish drafting the amendments, the Planning Commission to review the proposed changes and the public time to consider, understand and comment on the amendments.

Until expiration of this Interim Development Ordinance, no building permit application or planning approval for any development or redevelopment that meets the criteria as used in this ordinance, shall be granted pursuant to an application or request with a submittal date of March 1, 2005, or later. This ordinance shall not be construed to prohibit the issuance of a building permit or planning approval for any development or redevelopment that does not meet the criteria for review identified as “redevelopment” or “conversion” as used in the ordinance that is allowed pursuant to the Monroe County Land Development Regulations and the 2010 Comprehensive Plan.

Staff Recommendation

In a further review of the proposed Interim Development Ordinance, the staff raised concerns about the impacts of new condition 6 on the affordable housing stock. The staff believes it will result in the significant reduction of affordable housing, as the ordinance does not ensure that any units to be transferred off-site will ever be built. In all likelihood, the developer will let the allocation revert to the County and no replacement housing will be constructed as the County has limited financial resources.

The staff believes that it would be preferable to require the developer construct the affordable housing on site; however, if the developer decides to transfer the development rights off-site, the developer should be required to ensure the construction of the transferred units. The optional alternative to meeting this requirement available to the developer would be to contribute to the County's Affordable Housing Trust Fund an in lieu fee of \$50,000 per unit and to transfer the development rights to the County for assignment to other projects. This latter choice incorporates existing code requirements in Section 9.5-266(b) for new housing projects.

Additionally the staff believes that due to the unique situation of Stock Island as a working class community, that receiver sites for transfer of affordable housing development rights should be limited only to locations on Stock Island.

Therefore, the Planning Staff recommends the Monroe County Board of County Commissioners **APPROVE** the attached Interim Development Ordinance deferring development applications as presented except for the following change:

- O Replace Condition 6 in Section 4 of the IDO with the following language:

“6. For projects transferring ROGO allocations off-site pursuant to Section 9.5-120.4, Monroe County Code, all affordable housing units must obtain a certificate of occupancy before the first market rate unit is issued a certificate of occupancy. All transfers of affordable housing development rights from sites on Stock Island must be to receiver sites on Stock Island.

Alternatively, instead of building affordable housing units, the developer may contribute an in-lieu fee of fifty thousand dollars (\$50,000) per housing unit to the County's affordable housing trust fund pursuant to Section 9.5-266(b), Monroe County Code, thereby transferring ownership of the ROGO exempt development rights to Monroe County for assignment to other affordable housing projects.”